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For the F.A.J.R. Magic Trust

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA

Plaintiff,

v.

JAN ROUVEN FUECHTENER,

Defendant.

Case No. 2:16-cr-00100-GMN-CWH

**MOTION FOR RELEASE OF
FUNDS TO F.A.J.R. MAGIC
TRUST**

Interested Party F.A.J.R. Magic Trust (“Magic Trust”) respectfully moves for
the release of all funds currently in the registry of the Court, plus all accrued

1 interest, to the Magic Trust. In support of this motion, the Magic Trust provides the
2 following Memorandum of Points and Authorities.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 On July 24, 2017, the Honorable C.W. Hoffman, Jr., U.S. Magistrate Judge,
5 issued a report and recommendation that the Court continue to hold \$975,300
6 “pending sentencing to satisfy any criminal monetary penalties, with any remainder
7 returned to the trust.” (Report and Recommendation, ECF No. 207). On August 22,
8 2018, the Court adopted Judge Hoffman’s report and recommendation, to the extent
9 it was not inconsistent with the Court’s opinion. (Order, ECF No. 290 at 8).

10 On March 14, 2019, the Court directed the release of “\$307,500.00, alongside
11 \$24,648.41 in interest, which accrues daily” after Defendant Jan Rouven
12 Fuechtener (“Fuechtener”) was sentenced. (Order, ECF No. 347). On May 22, 2019,
13 the Court stayed its order for the release of funds “until disposition of the Motion for
14 Prejudgment Writ of Attachment in Case No. 2:19-cv-00352-RFB-GWF.” (Order,
15 ECF No. 381). The Court further ordered:

16 That counsel for the victims, John A. Kawai, Carol L. Hepburn, and Deborah A.
17 Bianco, shall provide the Court with a status report every thirty(30) days explaining
18 the status of the pending Motion for Prejudgment Writ of Attachment in Case No.
19 2:19-cv-00352-RFB-GWF, (ECF No. 5).

20 (Order, ECF No. 381 at 2). The last status report was filed by counsel for the civil
21 plaintiffs on December 5, 2019. (Status Report, ECF No. 392).

22 On February 3, 2020, the Honorable Elayna J. Youchah, U.S. Magistrate
23 Judge, denied the civil plaintiff’s motion for prejudgment writ of attachment. *See,*
Lily, et al., v. Fuechtener, No. 2:19-cv-00352-RFB-EJY (Dist. N.V.) (Civ. ECF No.

40).¹ Judge Youchah found that the funds being held in the registry of the Court belong to the Magic Trust and are exempt from execution under Nevada law. (Civ. ECF No. 40 at 9-12). The plaintiffs in the civil case did not object to Judge Youchah's order.

Because the civil plaintiff's motion for prejudgment writ of attachment has been denied, and the principal being held by the Court, plus daily interest, belongs to the Magic Trust, the Court should order the Clerk to disburse these monies to the Magic Trust forthwith.

Respectfully submitted,

/s/ Lance J. Hendron

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*Local Counsel for the
F.A.J.R. Magic Trust*

¹ Citations to documents filed in the related criminal case are notated as "Civ. ECF No. X".

1
2 /s/ Brandon Sample
3 Brandon Sample
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11 Counsel *Pro Hac Vice* for the
12 F.A.J.R. Magic Trust

13
14
15 **CERTIFICATE OF SERVICE**

16 I hereby certify that a true and correct copy of the foregoing was served this
17 27th day of October 2020, via CM/ECF on all counsel of record.

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20
21
22 /s/ Brandon Sample
23 Brandon Sample